

FX-TYPE SERVICES IN A MULTI-PROVIDER, COMPETITIVE ENVIRONMENT

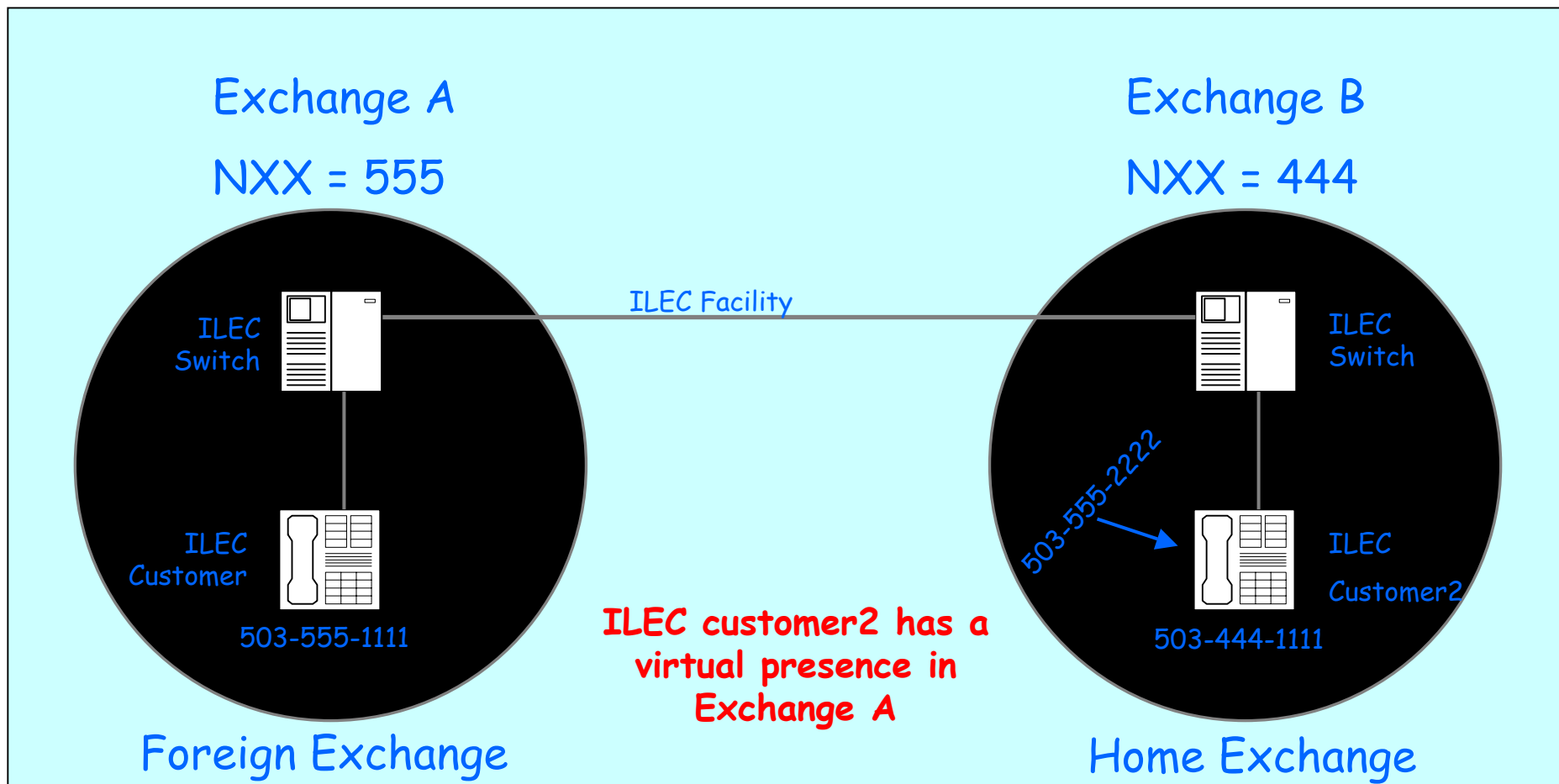
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What is an FX or FX-Like Network Arrangement?

FX: Allows a subscriber that is not physically located in a particular exchange area to receive a telephone number with an NXX code that is associated with that exchange area.

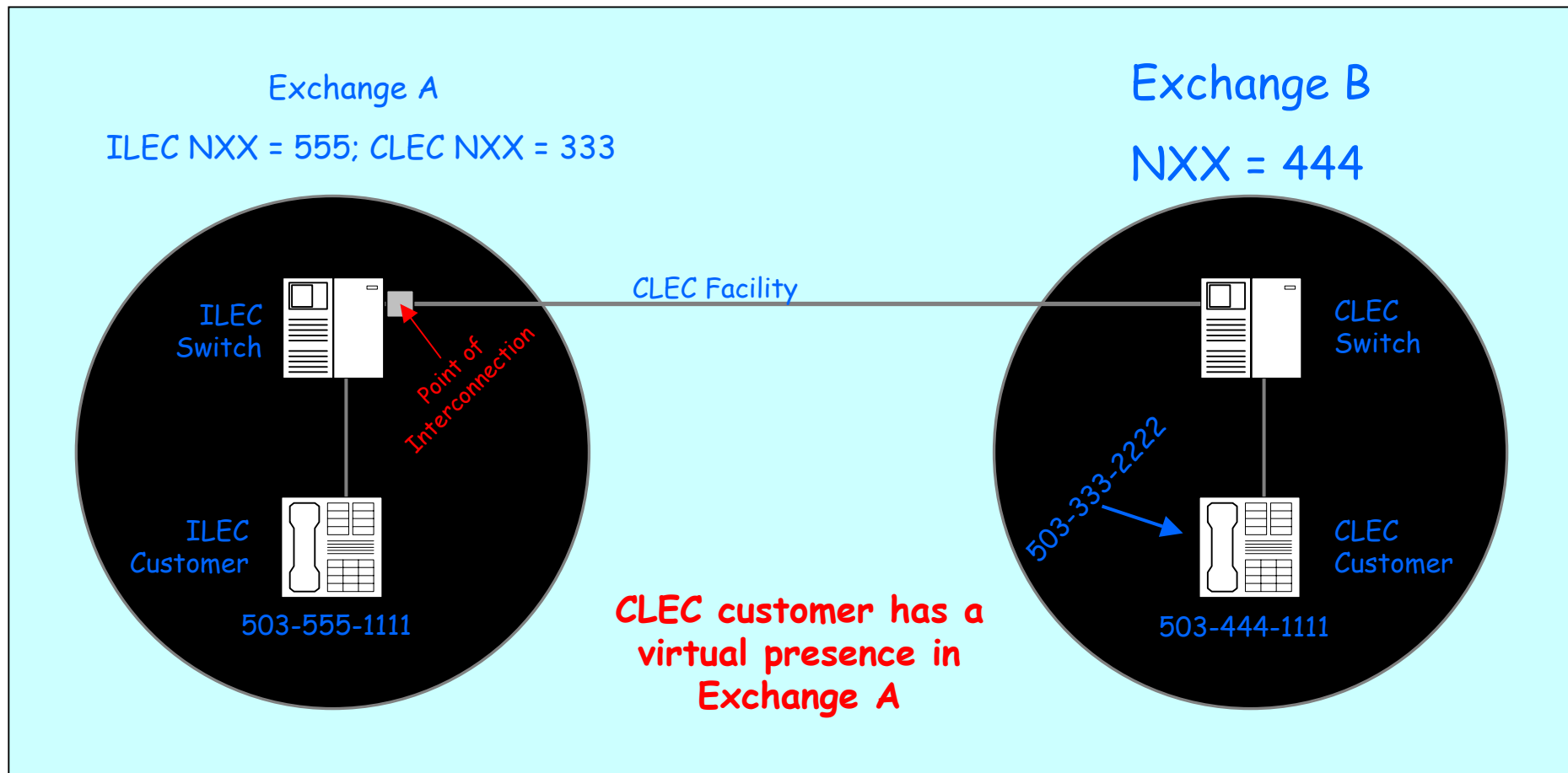
TRADITIONAL FX ARRANGEMENT

(Single ILEC provider)

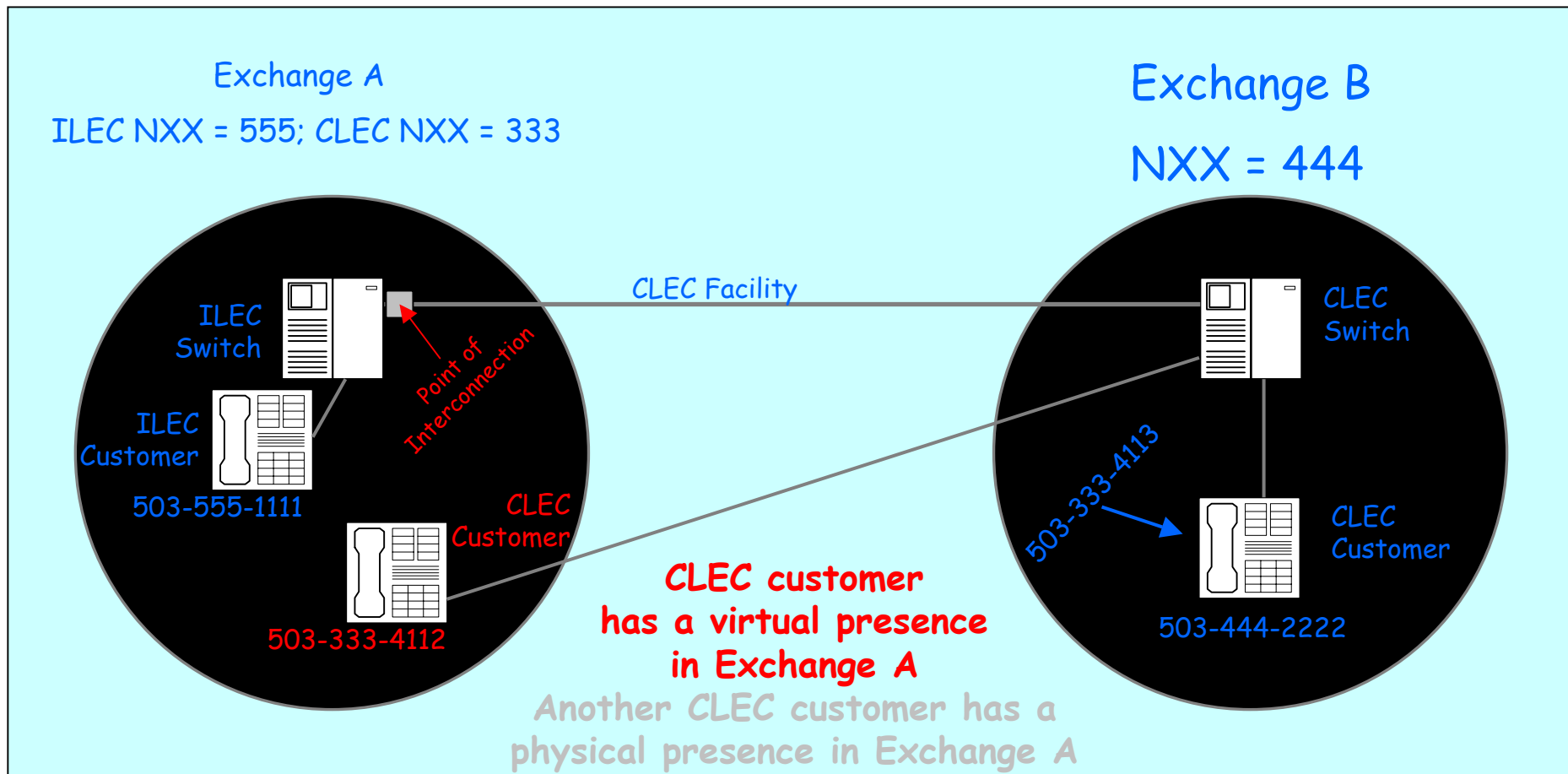


POSSIBLE FX-LIKE ARRANGEMENT

(2 competing providers)



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ILEC-provided and CLEC-Provided FX-Like Arrangements are Functionally Indistinguishable

- This functionality has been offered by carriers *for decades*.
- Virtual NPA/NXX = FX = FX-like = FX-type = VNXX = Wholesale Dial = Business Dial = Cyber POP = IPRS = ...
- All of these services provide the same or similar functionality for the consumers – *the use of local numbers to provide a presence in an exchange where the customer does not have a physical presence*.

Requiring Duplication of Incumbent Network is Inefficient

- ILEC networks (multiple switches in small rate centers) have largely been constructed in a monopoly environment based upon a guaranteed profit on their investment
- CLEC network architecture is based upon economic choices that are made under existing competitive circumstances
- Most efficient architecture is to deploy a single switch to serve as many customers as possible, and self-provide or lease transport facilities—which are much less expensive than switching facilities—from that switch to reach the ILEC network and the CLEC's end users

FX and FX-like Arrangements Promote Efficient Competitive Entry and Provide Important Benefits to Consumers

- Carriers can respond to customer demand quickly
 - Consumers and businesses can expand into areas quickly
 - Particularly useful to serve customers who want to enter less densely populated areas where they may not have physical presences today
- Noteworthy efficiency is that such services *do not generate any additional cost* on other carriers beyond that associated with interconnection for any local calls
- ISPs in particular use these services to provide local dial-up Internet access demanded by consumers

Prohibitions on FX and FX-like Arrangements Harm Competition and Consumer Welfare

- FX and FX-like services are an appropriate response to customer demand
- CLECs do not maintain central offices and switches in each exchange and are not required to do so as a matter of law, policy, or technology
- Competition in the telecommunications market would suffer
 - ILECs would effectively “win” merely by virtue of their historical “hub and spoke” architecture rather than the features and quality of the services they can deliver

The Physical Location of an ISP Does Not Matter in Determining the Inter-carrier Compensation Mechanism that Applies

- In its April 2001 *ISP Remand Order*, the FCC asserted exclusive jurisdiction over inter-carrier compensation issues related to ISP-bound traffic
- Traffic to ISPs is excluded from the reciprocal compensation requirements of Section 251(b)(5) by operation of Section 251(g) of the Act
- All ISP-bound traffic falls within the scope of the FCC's preemption ruling, including traffic to ISPs using FX and Virtual NXX arrangements
- The FCC has expressly noted in considering the jurisdictionally mixed nature of ISP-bound traffic that a focus on the location of the modem banks to determine jurisdiction would be an odd result: "Consumers would be perplexed to learn regulators believe they are communicating with ISP modems, rather than the buddies on their e-mail lists."

The POI, Not the Location of the Switch or the Customer, is the Critical Factor in Determining Financial Transport Responsibility

- All traffic generated between ILEC end users and CLEC end users is exchanged between the ILEC network and the CLEC network at a point of interconnection (“POI”)
- Each LEC has a legal obligation to bring its originating traffic to the POI, regardless of where it was originated in the LATA or relevant area
- From that point, the terminating LEC is responsible for all transport associated with delivering the call to the called party

For Purposes of Inter-carrier Compensation, ILEC-provided Foreign Exchange Service and CLEC-Provided Virtual NXX Arrangements are Indistinguishable

- Transport arrangements on the originating LEC's side of the call are identical regardless of the location of the terminating LEC's customer
 - It makes no difference whatsoever where the terminating LEC's customer is located behind that LEC's switch
- There is no additional special transport cost for the originating LEC associated with FX or FX-like or virtual NXX traffic that requires additional special compensation to the originating LEC